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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JOHN GILBERT SORIANO
4200 Queensboro Way
Union City CA 94587

Physical Therapist License No. PT 26708

Respondent.

Case No.

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about December 3, 2001, the Physical Therapy Board of California issued Physical Therapist License Number PT 26708 to John Gilbert Soriano (Respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2005, unless renewed.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws.

1 All section references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2609 of the Code states:

3 The board shall issue, suspend, and revoke licenses and approvals to practice
4 physical therapy as provided in this chapter.

5 5. Section 2660 of the Code states:

6 The board may, after the conduct of appropriate proceedings under the
7 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose
8 probationary conditions upon, or issue subject to terms and conditions any license, certificate, or
9 approval issued under this chapter for any of the following causes:

10 (d) Conviction of a crime which substantially relates to the qualifications,
11 functions, or duties of a physical therapist. The record of conviction or a certified
12 copy thereof shall be conclusive evidence of that conviction.

13 (i) Conviction of a violation of any of the provisions of this chapter or of
14 the State Medical Practice Act, or violating, or attempting to violate, directly or
15 indirectly, or assisting in or abetting the violating of, or conspiring to violate any
16 provision or term of this chapter or of the State Medical Practice Act.

17 (l) The commission of any fraudulent, dishonest, or corrupt act which is
18 substantially related to the qualifications, functions, or duties of a physical
19 therapist.

20 6. Section 2661 of the Code states:

21 A plea or verdict of guilty or a conviction following a plea of nolo contendere
22 made to a charge of a felony or of any offense which substantially relates to the qualifications,
23 functions, or duties of a physical therapist is deemed to be a conviction within the meaning of
24 this article. The board may order the license suspended or revoked, or may decline to issue a
25 license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed
26 on appeal or when an order granting probation is made suspending the imposition of sentence,
27 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person
28 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict

1 of guilty, or dismissing the accusation, information, or indictment.

2 7. Section 2661.5 of the Code states:

3 (a) In any order issued in resolution of a disciplinary proceeding before
4 the board, the board may request the administrative law judge to direct any
5 licensee found guilty of unprofessional conduct to pay to the board a sum not to
6 exceed the actual and reasonable costs of the investigation and prosecution of the
7 case.

8 (b) The costs to be assessed shall be fixed by the administrative law judge
9 and shall not in any event be increased by the board. When the board does not
10 adopt a proposed decision and remands the case to an administrative law judge,
11 the administrative law judge shall not increase the amount of the assessed costs
12 specified in the proposed decision.

13 (c) When the payment directed in an order for payment of costs is not
14 made by the licensee, the board may enforce the order of payment by bringing an
15 action in any appropriate court. This right of enforcement shall be in addition to
16 any other rights the board may have as to any licensee directed to pay costs.

17 (d) In any judicial action for the recovery of costs, proof of the board's
18 decision shall be conclusive proof of the validity of the order of payment and the
19 terms for payment.

20 (e) (1) Except as provided in paragraph (2), the board shall not renew
21 or reinstate the license or approval of any person who has failed to pay all
22 of the costs ordered under this section.

23 (2) Notwithstanding paragraph (1), the board may, in its
24 discretion, conditionally renew or reinstate for a maximum of one year the
25 license or approval of any person who demonstrates financial hardship and
26 who enters into a formal agreement with the board to reimburse the board
27 within that one year period for those unpaid costs.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction)

3 8. Respondent is subject to disciplinary action under sections 2660(d) and
4 2661 [conviction] and 2660(l) [dishonest act] in that he was convicted of a violation of Penal
5 Code section 484(a), petty theft. The circumstances are as follows:

6 9. On or about March 21, 2003, a criminal complaint titled *People of the*
7 *State of California vs. John G. Soriano*, case no. 202855-8 was filed in Superior Court, Alameda
8 County, Fremont Hall of Justice. Count 1 charged respondent with a violation of Penal Code
9 section 484(a), petty theft. On or about July 10, 2003, respondent entered a plea of no contest to
10 Count 1 and was found guilty. He was sentenced to three years probation, ordered to pay a fine
11 of \$317.00, and to stay away from Fry's Electronics in Fremont, California. The circumstances
12 are as follows:

13 10. On or about March 9, 2003, respondent went to Fry's Electronics in
14 Fremont, California. He paid for one item, but concealed two digital camera batteries valued at
15 \$99.98 in his fanny pack. When he left the store, he was confronted by store security personnel.
16 Respondent admitted to the theft, and was cited for shoplifting.

17 11. Therefore, respondent's license is subject to discipline in that he was
18 convicted of a violation of Penal Code section 484(a), petty theft, in violation of code sections
19 2660(d), 2660(l) and 2661.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Physical Therapy Board of California issue a
23 decision:

24 1. Revoking or suspending Physical Therapist License Number PT 26708,
25 issued to John Gilbert Soriano.

26 2. Ordering John Gilbert Soriano to pay the Physical Therapy Board of
27 California the reasonable costs of the investigation and enforcement of this case, pursuant to
28 Business and Professions Code section 2661.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: August 10, 2004

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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Soriano, J Accusation.wpd